IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2297 OF 2004.

Ambadas Mahadev Kadam. ... Applicant.
Versus.
State of Maharashtra. ... Respondent.

Shri R.C.Makhija, Advocate (appointed) for the Applicant.

Ms.M.M.Deshmukh, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 14th July, 2005.

P.C.:

1. This is a petition received through Jail wherein grievance is regarding the order dated 18th June 2004 by which the application for furlough leave made by the Petitioner is rejected. The order discloses that due to adverse police report the prayer for grant of furlough leave cannot be considered. The adverse police report is based on the enquiry made by the concerned Police Officer with the victim of the offence committed by the Petitioner and with the witnesses in the offence. On the basis of the said enquiry apprehension is expressed that there will be danger to the life of the victim and the witnesses. The second ground in the police report is that the villagers are aggrieved by the conduct of the Petitioner and there is some possibility that the Petitioner may do some overt act. So far as the first ground is concerned, it cannot be said that the

apprehension which is expressed is without there being any material as the report recites that enquiry was made with the victim, relatives of the victim and witnesses. So far as the second ground is concerned it obviously appears to be without any material and the application for furlough leave could not have been rejected on the second ground.

2. The police report which is considered is dated 9th December 2003. A period of more than 1-1/2 years have passed since the said Police report is submitted. It is, therefore, desirable that the application for furlough leave made by the Petitioner is reconsidered after calling for fresh report.

3. In view of the above, the following order is passed:

(i) Order dated 18th June 2004 passed by the Competent Authority is quashed and set aside.

(ii) The Application made by the Petitioner dated 3rd August 2004 for grant of furlough leave shall be considered afresh by the Competent Authority after calling for the fresh Police report in the light of the observations made in this order.

(iii) The Application for furlough leave shall be disposed of as expeditiously as possible and in any event within a period of 12 weeks from the date of production of an authenticated copy of this order.

(iv) Parties to act on an authenticated copy of this order.

Judge.